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MAYOR JERRY SANDERS PRESS RELEASE

Judge Cites City Attorney's Poor Legal Advice in Setback of Voter-Mandated Government Reform

MAYOR VOWS TO PUSH MANAGED COMPETITION FORWARD DESPITE RULING

A ruling by the state Public Employee Relations Board on procedural issues related to the implementation of managed competition will set back the voter-approved government-efficiency initiative by at least several months.

More than 60 percent of San Diego voters approved Proposition C in November 2006, giving Mayor Jerry Sanders the mandate to streamline city government by allowing the private sector to compete with city employees for contracts to deliver certain city functions.

Defying the overwhelming support of voters for the program, city employee unions have sought to thwart the implementation of managed competition through a series of delay tactics. In one such move, the unions filed a charge with the Public Employee Relations Board, or PERB, arguing that the City violated negotiating procedures on the program's guidebook and implementing ordinance.

The city's actions were based on legal advice by City Attorney Mike Aguirre on its procedural obligations during negotiations – advice that proved to be flawed. Specifically, the PERB administrative law judge's ruling cites a poorly reasoned interpretation of the law governing negotiations with union-represented employees.

Aguirre insisted there was no requirement for the city to bargain or hold an impasse hearing when it failed to reach resolution of disputed items with unions: "The City Attorney made clear, of course, that in his view, there was no duty to bargain. ... I have concluded otherwise," the judge wrote in his ruling. "Unfortunately, the City Attorney's advice helped to make sure that no proper impasse hearing occurred."

"This setback underscores our desperate need for competent legal counsel in the city attorney's office," said Mayor Jerry Sanders. "This procedural ruling is a defeat for taxpayers and further delays implementation of a program that voters in the city of San Diego have made very clear they want and expect."

The mayor intends to brief City Council in closed session on Sept. 2 on the city's strategy for moving managed competition forward in light of the unfavorable ruling. Regardless of the path the mayor and Council choose, the ruling is expected to delay putting services out to bid by several months at a minimum.

"It's extremely disappointing that the city attorney's poor advice has set back so much of the progress we've made on this initiative," Sanders said. "But make no mistake: We will implement this reform on behalf of the vast majority of San Diego voters who supported it."

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